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setting the tax rates and allow for some miscalculations or misprojections. It has been established for a good many years in our tax setting structure and we believe that it should be continued. As you recall, in the special session, the question did come to my mind of whether we should be setting a minimum without setting a maximum. As you again recall, I did approach the Attorney General and while there has never been a court case on that specific point, it was a part of a court case back sometime ago, and in his opinion, he told us, as you recall his letter, saying that if he had to sometime defend the statute, he would feel more comfortable with a floor and a ceiling, and here again, that is the basis for this. I move for the advancement, Mr. President.

PRESIDENT: Senator Keyes.

SENATOR KEYES: I would like to ask Senator Carsten a question. Senator Carsten, with a 5 to 7 percent overlevy, is that guaranteed that in January and February of next year we will be off. We might be short.

SENATOR CARSTEN: I don't think, Senator Keyes, we can exactly say it will guarantee but it is one of the factors to lead towards the avoiding of the situation. Hopefully, that is the reason for the flexibility here that the State Board can use, if they feel that there could possibly be that much variation in our receipts.

SENATOR KEYES: A law is no better than its penalty. What is the penalty?

SENATOR CARSTEN: There is no penalty, Senator Keyes. There has never been a penalty on the...

SENATOR KEYES: In other words, it wasn't used. The 5% overlevy wasn't used in the last three or four settings of the rate, was it?

SENATOR CARSTEN: There was no penalty before, is that what you said. No.

SENATOR KEYES: The five percent wasn't used because we actually proved that we went from 62 million down to a million and a half dollars by next July and they never took into consideration the 5%.

SENATOR CARSTEN: I think that is true because of that balance that was there but we are now faced with a situation where that balance that was there at one time does not now exist. Excuse me, Senator Keyes, but I think probably it is more important that we have this now than we had it then.

SENATOR KEYES: Isn't it very true that the Secretary of Treasurer knows when the pay out dates are and he also knows when the money is coming into the state, and wouldn't it be far better if the Secretary-Treasurer would come up and say this has to be changed or we are going to have to have more than 5 or 7 percent overlay to carry us through? Don't you think that is part of his job to advise this